

**TOWN OF LAUDERDALE-BY-THE-SEA  
TOWN COMMISSION  
REGULAR MEETING MINUTES  
Jarvis Hall  
4505 Ocean Drive  
Tuesday, May 10, 2016  
7:00 PM**

**1. CALL TO ORDER, MAYOR SCOT SASSER**

Vice Mayor Mark Brown called the meeting to order at 7:02 p.m. Also present were Commissioner Alfred "Buz" Oldaker, Commissioner Elliot Sokolow, Commissioner Chris Vincent, Town Manager Bud Bentley, Assistant Town Manager Tony Bryan, Development Services Director Linda Connors, Town Attorney Susan L. Trevarthen, Assistant Town Attorney Kathy Mehaffey, Special Projects Coordinator Debbie Hime, Public Information Officer Steve d'Oliveira, and Town Clerk Tedra Smith.

**2. PLEDGE OF ALLEGIANCE TO THE FLAG**

**3. INVOCATION**

Father Michael Greer gave the Invocation.

**4. ADDITIONS, DELETIONS, DEFERRALS OF AGENDA ITEMS**

**Vice Mayor Brown made a motion, seconded by Commissioner Vincent, to excuse Mayor Sasser's absence from the meeting. Motion carried 4-0.**

Vice Mayor Brown requested the addition of the American Medical Response (AMR) April 2016 report to the Agenda as Item 7b.

**Commissioner Sokolow made a motion, seconded by Commissioner Vincent, to add the AMR April 2016 report as Item 7b. Motion carried 4-0.**

Vice Mayor Brown also asked that Item 16a be heard earlier in the meeting as Item 5c.

It was also noted that beginning with the regular Town Commission meeting of June 14, 2016, Commission meetings will begin at 6:30 p.m. rather than 7 p.m. on a trial basis.

**5. PRESENTATIONS**

- a. Proclamation for National Police Week and National Peace Officers Memorial Day (Captain Fred Wood)**

Lauderdale-By-The-Sea  
Regular Town Commission Meeting  
May 10, 2016

Broward Sheriff's Office (BSO) Captain Fred Wood advised that the Proclamation recognizing May 15-21, 2016 as National Police Week and May 15, 2016 National Peace Officers Memorial Day commemorates the dedication and service of Police Officers to preserving citizens' rights and maintaining the safety of the community.

Vice Mayor Brown read the Proclamation aloud at this time.

**b. Proclamation for National Emergency Medical Services Week and Plaque Presentation to Stuart Dodd (Chief Brooke Liddle)**

AMR Chief Brooke Liddle stated that May 15-21 is also National Emergency Medical Services Week, which recognizes first responders throughout the country.

Vice Mayor Brown read the Proclamation aloud at this time.

Chief Liddle continued that AMR recognizes the contribution of the Town of Lauderdale-By-The-Sea in building an admirable model of public service, in which former Commissioner Stuart Dodd played a significant role. He presented former Commissioner Dodd with an award of excellence in appreciation for his support.

**c. Resolution 2016-18 – A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, ADOPTING THE 2015 UPDATE OF THE “UNIFIED REGIONAL SEA LEVEL RISE PROJECTION FOR SOUTHEAST FLORIDA” AS A BASIS FOR SEA LEVEL RISE ADAPTATION PLANNING ACTIVITIES (Linda Connors, Development Services Director)**

At this time Vice Mayor Brown opened public comment, which he closed upon receiving no input.

Dr. Samantha Danchuk, Assistant Director of Broward County Environmental Planning and Community Resilience Division showed a PowerPoint presentation on the Resolution. The Southeast Florida Regional Climate Change Compact, which consists of four counties working to address issues related to climate change adaptation and mitigation, has recently produced an updated Unified Regional Sea Level Rise Projection for Southeast Florida. Broward County is asking all its municipalities to adopt these adaptation activities into their planning and engineering designs as well.

Dr. Danchuk advised that since 1992, the world has seen an acceleration in sea level rise, which has prompted south Florida to recognize this change in its monitoring and design activities. Projected data estimates 2 ft. of sea level rise by the year 2060. Projects designed to last fewer than 50 years, or infrastructure projects that are easily adaptable, may be conservatively adapted; however, high-risk infrastructure should build in the safety factors recommended by the projection.

Dr. Danchuk noted that Lauderdale-By-The-Sea is well-positioned to adapt to sea level rise, as it includes higher elevations and fewer areas prone to flooding; however, for every 1 ft. of sea level rise, a corresponding rise in groundwater is projected as well. This limits the amount of available drainage.

Some municipalities are currently advancing improved seawall design Codes, or have adopted new base flood elevation design Codes. More advanced coastal modeling is underway to support these decisions. A sea level rise companion document is available online to explain how these projections are determined. A Compact workshop is scheduled for July 14, 2016 and is open to all Public Works Staffs throughout the County.

The Commissioners discussed the presentation, including the potential financial impact of sea level rise on funding of future projects. Dr. Danchuk replied that this impact is typically determined on a project-by-project basis, noting that the Town has already taken significant steps to improve stormwater systems.

Commissioner Vincent advised that his concern is that it may be difficult to predict sea level rise 50 to 60 years in the future. Dr. Danchuk advised that there is no specific projection figure by date, but a range allowing for different levels of adaptation. She pointed out that infrastructure is likely to be updated within the projected time frame as a matter of course, and should take the projections into consideration.

Vice Mayor Brown observed that the regional approach taken by southeast Florida, including recommendations, are scientific efforts that most municipalities could not undertake by themselves. He advised that adoption of the Resolution would allow the Compact to continue with its work for the entire region, and asked that the Commission support the Resolution for this reason.

**Commissioner Sokolow made a motion, seconded by Commissioner Oldaker, to adopt the Resolution. Motion carried 4-0.**

## **6. PUBLIC COMMENTS**

At this time Vice Mayor Brown opened public comment.

Jerry Sehl, President of the Lauderdale-By-The-Sea Kiwanis Club, announced the winners of two service awards, who will be honored at a future Kiwanis Club event. Guy Contrada is the winner of the 2016 Maureen and Stanley White Humanitarian Award and Veronica Pietronuto is the winner of the 2016 Community Service Award.

As there were no other individuals wishing to speak at this time, Vice Mayor Brown closed public comment.

## **7. PUBLIC SAFETY DISCUSSION**

**a. BSO April 2016 Report (Captain Fred Wood)**

Captain Wood stated that BSO Staff was given a \$10,000 grant from the Florida Department of Transportation (FDOT) to carry out pedestrian and bicycle enforcement operations along A1A and Commercial Boulevard. These efforts began on February 20, 2016 and consisted of 10 different traffic operations over several days. 416 warning citations and 31 actual citations were issued. The operations' success resulted in an additional \$5600 in funding.

Commissioner Vincent requested additional enforcement efforts to prevent drivers from making a left turn on West Tradewinds Avenue after crossing the bridge and making a U-turn before crossing over the bridge. Town Manager Bud Bentley advised that there has been discussion regarding design changes made in this area, such as removal or scaling back of the left turn lane, to prevent this activity. Further discussions with the surrounding neighborhood will be necessary before any steps are taken.

Captain Wood explained that education is the primary focus of the grant, and a high number of warning citations are expected to be issued, along with educational material to address safety issues. 2016 is the second consecutive year in which Lauderdale-By-The-Sea has received grant funds for this purpose.

Vice Mayor Brown noted that BSO Staff has made an effort to educate the public regarding the presence of dogs on the beach. Captain Wood confirmed that beginning on March 20, 2016, these efforts have been made on a daily basis on all portals to the beach. Roughly 20 dog owners were approached during the month of March 2016, and five owners were approached during April.

**Commissioner Sokolow made a motion, seconded by Commissioner Vincent, to approve. Motion carried 4-0.**

**b. AMR April 2016 Report (Chief Brooke Liddle)**

**Commissioner Sokolow made a motion, seconded by Commissioner Vincent, to approve. Motion carried 4-0.**

**8. TOWN MANAGER REPORT**

**a. Chamber of Commerce Welcome Center April Report (Tedra Smith, Town Clerk)**

Vice Mayor Brown commented that figures for the first four months of 2016 are significantly higher than in previous years. Courtney Stanford, representing the Chamber of Commerce, explained that this was because the Chamber's website came



online in early 2015. She added that the Town came in fourth in a *USA Today* poll for "Best Small Weekend Getaway."

Ms. Stanford also addressed the street crossing at A1A and Hibiscus Drive, noting that a member of the Chamber of Commerce Board had stated this crossing is difficult due to the timing of the traffic lights at this intersection. Commissioner Oldaker observed that a study will be done in 2017 on this intersection.

## **9. TOWN ATTORNEY REPORT**

Town Attorney Susan Trevarthen advised that oral arguments in the *Ober* case are scheduled for June 14, 2016. A report will be made to the Commission once a decision has been reached in this case.

## **10. APPROVAL OF MINUTES**

- a. **April 26, 2016 Town Commission Meeting Minutes (Tedra Smith, Town Clerk)**

Commissioner Vincent made a motion, seconded by Commissioner Sokolow, to approve. Motion carried 4-0.

## **11. CONSENT AGENDA**

- a. **Florida Development Group 4<sup>th</sup> of July 2016 License Agreement (Debbie Hime, Special Projects Coordinator)**

Commissioner Sokolow made a motion, seconded by Commissioner Oldaker, to approve. Motion carried 4-0.

## **12. OLD BUSINESS**

None.

## **13. NEW BUSINESS**

- a. **Vacation Rental Status Update (Linda Connors, Development Services Director)**

Development Services Director Linda Connors reported that there have been several inquiries and complaints regarding vacation rental properties in Lauderdale-By-The-Sea. In 2009, the Town adopted vacation rental regulations, which were revised later that same year to refer only to single-family homes and town homes. Vacation rental properties in these zoning districts must offer a minimum stay of seven days, as well as

other regulations including registration of the property with the Town, availability of an agent, and regulations addressing garbage and parking.

In 2011, the Florida Legislature passed legislation limiting local governments' authority to regulate vacation rentals. While the Town's regulations are grandfathered, the Town is extremely limited in its ability to revise these regulations without losing grandfathered status. The State has recently revised its legislation to allow some additional local government regulation, including operational and licensing requirements for duplex, triplex, and quadplex properties, which are not currently regulated by the Town. No minimum stay may be imposed for these properties.

There are presently 37 approved vacation rental properties within the Town, with 10 applications under review. Code Enforcement Staff reviews vacation rental websites to determine if properties are advertising for a seven-day minimum stay, or if they are allowing more than the limit of 10 individuals per stay. Four vacation rental properties have active Code violations for allowing less than the required seven-day minimum stay, and 19 properties have violations for not registering as vacation rentals. 10 of the 19 cited properties are included in the applications under review. Maps showing these properties are available on the Town's website.

Local municipalities meet to discuss the issue of vacation rentals on a quarterly basis to compare regulations. There are seven Broward County municipalities which regulate vacation rentals, and Lauderdale-By-The-Sea has some of the strongest regulations in place for these properties.

Development Services Director Connors advised that the Town may regulate duplex, triplex, and quadplex vacation rental properties, although they may not require a seven-day minimum stay. These properties would have to abide by registration, parking, and agent availability requirements. She also noted that the Town's registration fees, which are \$250 for both initial registration and renewal, are relatively low and do not cover the application and monitoring processes necessary for these properties. She recommended increasing these fees to \$750 for registration and \$500 for renewal, which are consistent with the fees charged by other cities.

Town Attorney Trevarthen explained that should the Town choose to consider regulating other transient uses for properties that are not single-family or town home residences, such as duplexes, triplexes, and quadplexes, these properties will be required to meet the statutory definition of vacation rentals, which requires that the properties be rented more than three times in one calendar year for periods of less than 30 days. This would mean regulations may not apply to properties that rent for shorter periods or less than three times per year, although these properties could prove to be very disruptive to the surrounding communities.

Town Attorney Trevarthen continued that the Town is not preempted from regulation of properties in buildings with more than five units; however, she recalled that when the

Commission first imposed regulations on vacation rentals in 2009, it was found that most larger properties have their own restrictions that may apply to these rental units without Town involvement.

Development Services Director Connors explained that neighborhoods often assist the Town in making Staff aware of unregistered vacation rental properties, and are encouraged to contact the property agent during business hours for noise and other violations and BSO after hours. Vacation rental property agents are required to be present within three hours when a violation occurs.

Town Attorney Trevarthen advised that the existing Ordinance allows the Town Manager to implement administrative rules and procedures to assist in the implementation of the regulations. She also noted that it may be possible for the Town to amend its Ordinance, although this could leave them open to challenge.

Commissioner Sokolow commented that the Town should add these new types of buildings to be regulated, in addition to revising its fees for vacation rentals. He advocated doing as much as possible to strengthen the Town's regulations in advance of any forthcoming preemption by the State.

Development Services Director Connors observed that if a violation is documented, including operation of a vacation rental property without a license, the fee for this violation is set by the Special Magistrate. If a property does not come into compliance by a set date, the fee is \$150 per day until the property comes into compliance. Town Attorney Trevarthen added that the fines per day are determined by the Special Magistrate depending upon the facts of a given case.

Vice Mayor Brown asked if there is a way to regulate individual agents who allow vacation rental properties to disobey regulations, as many vacation rental property owners are absentee owners. Town Attorney Trevarthen added that the Flagler County Attorney has overseen the adoption of regulations intended to test how far the State's preemption may apply, in response to which a suit was brought forward by a corporate vacation rental operator. The regulation was largely upheld, which has led to other local governments taking limited action to regulate vacation rentals. In addition, the city of Vero Beach made a case in which the court upheld that its minor regulations could be slightly amended without losing grandfathered status.

Town Attorney Trevarthen continued that if vacation rental agents fail to perform their duties and are found to be liable at a hearing, they may be suspended for a period of time until they come into compliance with minor violations. In the case of major or repeated violations, the Town Manager may revoke their licenses. Town Attorney Trevarthen emphasized that violations committed by a property and by an agent may be very different types of violations: at present, all violations committed by licensed vacation rental properties in the Town are linked to properties rather than to agents.

The Commissioners agreed by unanimous consensus to approve Staff's recommendations to prepare the necessary Ordinance(s) and Resolution(s) to amend existing vacation rental regulations and increase fees. Development Services Director Connors encouraged all residents to bring any vacation rental violations they may see to the attention of Code Enforcement at 954-640-4220 or call the BSO non-emergency hotline number after hours at 954-764-HELP.

**b. Appointment of Chairperson for the 2016 Veterans Day Event (Tedra Smith, Town Clerk)**

Commissioner Vincent volunteered to serve as Chair for the 2016 Veterans Day event.

**14. COMMISSIONER COMMENTS**

Commissioner Oldaker reported that he has met with Town Staff and members of the Volunteer Fire Department (VFD) to organize the 2016 4<sup>th</sup> of July celebration. The VFD hopes to hold a car show as part of this year's event.

Commissioner Sokolow encouraged all present to patronize the Town's restaurants near the plazas and experience outdoor dining while the weather permits.

Vice Mayor Brown advised that he recently attended a Broward Senior Hall of Fame breakfast, at which Town resident Sandra Booth was inducted into the Hall of Fame for her volunteer and mentoring work.

He added that the Broward MPO was unable to reach a satisfactory compromise with the Broward County Board of County Commissioners regarding a proposed sales surtax to fund transportation; instead, they opted to proceed with advancing a sales surtax to fund infrastructure improvements, which the Commissioners approved by Resolution at the April 26, 2016 meeting.

Vice Mayor Brown pointed out that by law, Town governing bodies are not allowed to advocate for or against a ballot initiative, although the Commission will provide information about the prospective referendum so the public understands what is at stake. Town Attorney Trevarthen noted, however, that the individual Commissioners may express their opinions about the initiative, as long as no Town funds are used toward this purpose.

**15. ORDINANCES**

**Ordinances 1<sup>st</sup> Reading**

None.

**Ordinances 2<sup>nd</sup> Reading**

- i. **Ordinance 2015-17 – AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING CHAPTER 5, “BEACHES AND WATERWAYS,” BY AMENDING SECTION 5-1, “DEFINITIONS,” TO CLARIFY THE DEFINITION OF WATERCRAFT; AMENDING CHAPTER 30, UNIFIED LAND DEVELOPMENT REGULATIONS, OF THE CODE OF ORDINANCES, BY AMENDING SECTION 30-11, “DEFINITIONS,” TO PROVIDE DEFINITIONS RELATED TO MARINA USES; BY AMENDING DIVISION 2, “DISTRICTS,” OF ARTICLE V, “ZONING,” TO RENAME SUBDIVISION G, “BUSINESS ZONING DISTRICT REGULATIONS,” TO “B-1-A DISTRICT REGULATIONS,” TO DELETE SECTION 30-260 TO ELIMINATE DUPLICATION, TO AMEND SECTION 30-261, “B-1-A DISTRICT – BUSINESS” TO REORGANIZE REQUIREMENTS FOR CONDITIONAL USES, AND TO AMEND SECTION 30-271, “B-1 DISTRICT – BUSINESS,” TO CORRECT REFERENCES AND PROVIDE FOR PERMITTED USE OF MARINAS, IDENTIFY SPECIFIC REQUIREMENTS FOR MARINA USES, AND REORGANIZE REQUIREMENTS FOR CONDITIONAL USES; BY AMENDING SECTION 30-311, “BOATS, BOAT LIFTS, BOATHOUSES, AND ANCHORAGE,” TO AMEND AND CLARIFY THE REQUIREMENTS FOR DOCKING AND MOORING OF WATERCRAFT AND PROVIDE A PROCESS AND REQUIREMENTS FOR THE DESIGNATION OF MARINA MOORING AREAS; BY AMENDING SECTION 30-318, “MINIMUM PARKING REQUIREMENTS,” TO MODIFY PARKING REQUIREMENTS FOR MARINAS IN A YACHT BASIN; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE (Linda Connors, Development Services Director)**

Vice Mayor Brown asked if Mayor Scot Sasser would be able to express his opinion and vote on this Item at a subsequent meeting. Attorney Kathy Mehaffey clarified that if the Ordinance is passed at tonight’s meeting, it would not legalize the existing marina, but would create a process through which the marina may apply to become a legal use. That application would be a separate action from tonight’s vote. Once the correct process has been identified and approved, the Commission would then be able to review plans submitted by the marina and make a determination on their merits according to this process.

Development Services Director Connors explained that Ordinance 2015-17 contemplates the addition of a marina use to the Town’s Code. At the April 26 meeting, the Commissioners requested that Staff bring this item back and include a conditional use option.

Staff has presented two versions of the proposed Ordinance: Exhibit 1, which would allow the addition of marina uses through site plan approval, and Exhibit 2, which would allow this addition through conditional use. Other portions of the Ordinance clarify portions of existing Code for greater consistency.



Development Services Director Connors advised that line 455, Exhibit 2 includes language stating that while a pump-out station would be required of the marina, the specific location, use, and type of pump-out station would be provided as part of the marina's application for conditional use. Similar language exists within line 628, Exhibit 1, site plan approval, as well. Town Manager Bentley noted that while there is no language in either Ordinance requiring a restroom, this would also be forthcoming as part of the appropriate approval process.

Commissioner Sokolow observed that the Ordinance does not specifically state the marina must have a pump-out station. Development Services Director Connors noted that the Commission would be able to deny a conditional use or site plan application that does not include a pump-out facility. Town Attorney Trevarthen advised that if the Commissioners wish Staff to state this requirement more clearly, the Ordinance may be revised to do so. Commissioner Sokolow did not feel the language of the proposed Ordinance was adequate to enforce this requirement.

Commissioner Vincent pointed out that the Commission may not be unanimous in its desire for language requiring a pump-out facility. He stated that he would not be comfortable with a mandate for this purpose. Town Attorney Trevarthen noted that line 464, Exhibit 1 states in order to approve a conditional use, the conditional use application must specify the type of pump-out station required. Commissioner Sokolow declared that this would allow an applicant the option of stating "none".

Vice Mayor Brown recalled that at the April 26 meeting, the Commissioners had appeared to reach consensus on mandating a pump-out station. Commissioner Sokolow asserted that a future Commission could have discretion, under the existing language, not to require a pump-out station.

Town Attorney Trevarthen clarified that because the marina predates the existence of any Ordinance to govern the facility through either conditional use or site plan approval, it is currently considered a legal nonconforming use. The marina wishes to redevelop as a fully legal conforming use. The proposed Ordinance would amend the Unified Land Development Regulations (ULDR) by including a process through which the marina could apply to become a legal conforming use. A vote by the Town Commission to allow the marina legal status would occur in the future through the mechanism approved by the Commission.

At this time Vice Mayor Brown opened public comment.

Michelle Klymko, attorney representing the marina, recalled that the issue of conditional use or site plan approval has been discussed multiple times since March 2015. She noted that in the past the Commission did not appear to be satisfied with the requirements of conditional use. She also advised that the marina would prefer to



proceed with the site plan amendment process, pointing out that this would address many of the Commission's concerns, including liability, noise, and appearance.

Ms. Klymko stated that cameras currently mounted at the marina allow its operators to oversee activity at the location 24 hours per day at the marina. She asserted that management of the marina never acted in defiance of Code, but has worked to address past violations and improve the property. She stated that the facility has never committed a violation related to the lack of a station.

Ms. Klymko concluded that the marina would prefer the adoption of a site plan amendment under which they could apply to become a legal conforming use. The marina operator is concerned that if conditional use is adopted, it could be so restrictive that the facility could no longer continue to operate. The property has received no notices of violation since its operators were made fully aware of Town Code. Based on these good faith efforts, the marina requested that the Commission adopt a site plan amendment process, with no requirement for a pump-out station.

With no other individuals wishing to speak at this time, Vice Mayor Brown closed public comment.

Town Manager Bentley asked how the marina's opposition to a required pump-out station related to Florida Clean Marina certification, as well as what alternative sanitary facilities are recommended for a marina of its size. Ms. Klymko replied that one option is a mandatory key depository, by which a vessel's Y-valve would be locked to prevent it from being opened during its time in the marina and dye tablets are placed in the vessel's toilet system. The property owner is supportive of this possibility due to its cost-effectiveness. In addition, clients of the marina have expressed a lack of willingness to use a pump-out station.

Vice Mayor Brown commented that he felt a pump-out station would add value to the marina over time, and noted that the addition of this station could contribute to future lien mitigation. He advised that a site plan will be necessary no matter which process is adopted by the Town Commission. Ms. Klymko replied that the marina owners feel the conditional use process would be more onerous, requiring elements such as a traffic study. She expressed concern that conditional use could be used to eventually force the property owners out of business.

Ms. Klymko continued that under site plan amendment, the Town could issue violations to the marina in the same manner currently used; however, under conditional use, the Town could be able to shut down the facility if a single violation occurred. Vice Mayor Brown emphasized that due to the facility's past history, the Commission wishes to ensure that they can maintain a level of control that addresses the concerns of Town residents while allowing the marina due process.

Town Attorney Trevarthen clarified that a standard provision written into all development orders allows the Town to revoke approval if a Code violation occurs. She added that all conditions that may apply for approval as a legal conforming use would not be covered at tonight's meeting, as these conditions would need to be customized to the individual application submitted.

Commissioner Vincent advised that he was in favor of site plan amendment, as conditional use could be construed as a stigma in the event of resale of the property. With regard to the pump-out station, he did not wish to place an inordinate financial burden on the marina; however, if a pump-out station is required of the marina, he felt local residents should be allowed to use the facility.

Commissioner Sokolow agreed that a pump-out station should not be mandatory for approval, as the marina is not intended to be a full-service facility. Commissioner Oldaker observed that he is in favor of a pump-out station, as it is a legitimate concern to residents along the canal, and characterized the ongoing issue as a complicated one for which compromise must eventually be reached.

**Commissioner Vincent made a motion, seconded by Commissioner Sokolow, to approve Exhibit 1, site plan approval, with the intent that a pump-out station may be required by the Commission upon submission of an application.**

It was clarified that should the Commission vote 2-2 on the above motion, the motion would fail; however, any individual who voted on the prevailing side of the motion by casting a "no" vote would be able to move that the Item be reconsidered. In addition, should the motion fail, a different motion on the Item could be offered at tonight's meeting. The deadline for a motion to reconsider would be the next scheduled meeting on May 24, 2016.

Town Manager Bentley pointed out that the Ordinance is written in a manner intended to require a pump-out station, and that previous discussion of the proposed Ordinance by the Planning and Zoning Board further clarified this intent. He advised that any future decision should not be for or against a pump-out station, but what type of pump-out station is required. Commissioners Vincent and Sokolow disagreed, declaring that the motion states otherwise. Town Manager Bentley advised that if the Commission does not want to require a pump-out station, they should clarify this through an amendment to the proposed Ordinance.

Town Attorney Trevarthen added that if a vote is taken on Exhibit 1, a scrivener's error must also be addressed. She stated that the motion would adopt the site plan version of the Ordinance, modified as follows:

- Add additional language at subsection 30-271(m)(1)"b. the name, address, email address and phone number of the designated marina agent." at line 597 in the Site Plan version, which is found in lines 453 through 456 of the conditional use version of the Ordinance;

- At lines 597 subsection c in Site Plan version, 605, and 628 of the conditional use version, specify that references to the pump-out system will be modified to add "if one is proposed."

**Motion failed 2-2 (Vice Mayor Brown and Commissioner Oldaker dissenting).**

Ms. Klymko requested that a vote be taken on Exhibit 2, conditional use, with removal of language requiring a pump-out station. She advised that the marina owners would commit to the use of Y-valve locks and tablets in lieu of a sanitary pump-out facility.

The Commissioners called a brief recess in order to allow Ms. Klymko to consult with her client.

Following a consultation with representatives of the marina, Ms. Klymko advised that the marina would be supportive of Exhibit 2, conditional use, under the following condition: no pump-out station is required, and the marina will instead commit to the use of Y-valve locks and tablets. She confirmed that the marina owners and managers understand that should the use of tablets result in proof of a violation, Code Enforcement would follow up accordingly. Town Attorney Trevarthen confirmed that an applicant may be held to this condition, as it was offered on the record during the meeting.

**Commissioner Sokolow made a motion, seconded by Commissioner Vincent, to approve site plan approval with the changes that were previously discussed and the inclusion of a mandate that there be a locking valve system with tablets required for all boats in the marina. Motion failed 2-2 (Vice Mayor Brown and Commissioner Oldaker dissenting).**

Vice Mayor Brown ceded the gavel at this time.

**Vice Mayor Brown made a motion, seconded by Commissioner Oldaker, to reconsider the issue at the next Commission meeting. Motion failed 2-2 (Commissioners Oldaker and Vincent dissenting).**

Commissioner Oldaker explained that he was concerned with the Town's leverage regarding site plan approval versus conditional use approval; in addition, he felt the neighborhood surrounding the marina is in favor of a pump-out facility. He noted that fines are continuing to accrue by the marina, although it was clarified that none of the fines are related to sanitary or pump-out issues.

Town Manager Bentley stated that any violations of conditional use would go through the Special Magistrate process; if the violations prove to be repetitive and notorious, Staff would bring the issue of revocation of conditional use or site plan approval before the Commission. He characterized the normal Code process as a safety net for the

marina in the event that a vessel violates policy. Town Manager Bentley continued that neighbors of the marina feel a pump-out system is the preferred solution.

Ms. Klymko asserted that there has never been a Code violation related to dumping of waste into the marina. She also pointed out that residents in the area have access to their own marina. Commissioner Vincent reiterated that he felt requiring a pump-out station would place an unnecessary financial burden on the marina.

Town Attorney Trevarthen advised that at present, the marina would continue as a legal nonconforming use without a development order governing this use if no decision is reached by the Town. Development Services Director Linda Connors advised that the finger piers within the marina may not be removed or reconstructed, as they constitute a Code violation by intruding into the navigational waterway. The proposed Ordinances would allow for construction of a marina mooring area, and would allow the facility to come into compliance with the citations against them.

Vice Mayor Brown ceded the gavel at this time.

**Vice Mayor Brown made a motion, seconded by Commissioner Oldaker, to adjourn. Motion failed 2-2 (Commissioners Vincent and Sokolow dissenting).**

**Commissioner Sokolow made a motion, seconded by Commissioner Oldaker, to consider Conditional Use version of the ordinance. Motion carried 4-0.**

**Commissioner Sokolow made a motion, seconded by Commissioner Oldaker, to table discussion of conditional use until the May 24, 2016 meeting. Motion carried 4-0.**

#### **16. RESOLUTIONS – PUBLIC COMMENTS**


This Item was heard earlier in the meeting as Item 5c.

#### **17. QUASI JUDICIAL PUBLIC HEARINGS**

None.

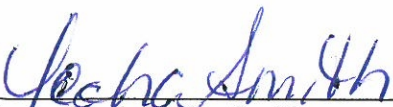
#### **18. ADJOURNMENT**


With no further business to come before the Commission at this time, the meeting was adjourned at 10:09 p.m.

  
\_\_\_\_\_  
Mayor Scot Sasser

Lauderdale-By-The-Sea  
Regular Town Commission Meeting  
May 10, 2016

ATTEST:

  
\_\_\_\_\_  
Town Clerk Tedra Smith

  
\_\_\_\_\_  
Date